

REMARKS

This Response is submitted in reply to the non-final Office Action mailed on January 30, 2008. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-462 on the account statement.

Claims 17-59 are pending in this application. Claims 17-55 were previously withdrawn. Claims 1-16 were previously canceled. In the Office Action, Claims 56-59 are rejected under 35 U.S.C. §103. For at least the reasons set forth below, Applicants respectfully traverse the rejection and submit that the rejection should be withdrawn.

In the Office Action, Claims 56-59 are rejected under 35 U.S.C. §103(a) as being unpatentable over Reexamination of U.S. Patent No. 4,267,195 to Boudreau et al. ("*Boudreau*") in view of IAMS, The Guide To Complete Nutrition ("*IAMS*"). For at least the reasons set forth below, Applicants respectfully disagree with the rejection and request that the rejection be withdrawn.

Independent Claim 56 recites, in part, a pet food comprising at least one amino acid selected from lysine, cysteine and combinations thereof, the lysine comprising 2.7% to about 3.1% by weight of the pet food and the cysteine comprising from about 0.50% to about 0.75% by weight of the pet food. Similarly, independent Claims 57-59 recite, in part, a pet food comprising at least one amino acid selected from lysine, cysteine and combinations thereof, the lysine comprising from about 6.7% to about 12.5% by weight of the dietary protein level of the pet food and the cysteine comprising from about 1.67% to about 2.68% by weight of the dietary protein level of the pet food. In contrast, Applicants respectfully submit that the cited references are deficient with respect to the presently claimed subject matter.

Applicants respectfully submit that, even if combinable, *Boudreau* and *IAMS*, either alone or in combination, fail to disclose each and every limitation of the present claims. For example, and as a preliminary matter, Applicants respectfully submit that *IAMS* fails to disclose or suggest any amounts of either cysteine or L-lysine. As discussed below, *Boudreau* fails to disclose the claimed ranges of both cysteine and lysine.

Boudreau is directed primarily toward dog food flavors and dog foods having increased palatability due to the flavors. See, *Boudreau*, Background. *Boudreau*, however, fails to

disclose or even suggest the percentages of lysine or cysteine required, in part, by Claim 56. For example, the Patent Office asserts that “[t]he amounts of cysteine [in *Boudreau*] is 1 or 3% of the dry weight of the dog food, or of 100 g dog food and 150 g water, 3 g at 3% of the 250 g total, or 0.75%.” See, Office Action, page 2, lines 10-11 (emphasis added). However, Applicants maintain that the Patent Office is mischaracterizing the disclosure of *Boudreau*.

For example, *Boudreau* specifically describes a dog food flavor composition that is desirably coated on the outside of a solid dog food and applied in a manner which allows their release into any water used for hydration. See, *Boudreau*, col. 2, lines 37-41. Similarly, *Boudreau* specifies that effective levels of cysteine in the dog food comprise 1% and 3% by weight of the dry weight of the dog food in the case where a 100 gram sample of the food is fed to the dog in combination with 150 grams of warm water. See, *Boudreau*, col. 3, lines 7-13. Specifically, the portion of *Boudreau* that discusses the amount of cysteine contained in the composition reads as follows:

[e]ffective levels in this case, where a 100 gram sample of the food was fed with 150 grams of warm water, were 1% and 3% by weight of the dry weight of the dog food for L-cysteine . . . [t]est[s] employing, on the same basis, 3% ATP, 1% and 3% L-proline, and 1% L-lysine did not show palatability boosts over the highly flavorful control.

See, *Boudreau*, col. 3, lines 7-16 (emphasis added). Because the effective level of cysteine comprises 1-3% of the 100 gram sample of dry weight of the dog food, *Boudreau* cannot disclose cysteine comprising from about 0.50% to about 0.75% by weight of the pet food.

Applicants respectfully disagree with the Patent Office’s suggestion that the amount of cysteine disclosed in *Boudreau* can be based on anything other the “dry weight of the dog food,” which is explicitly recited in the third column of *Boudreau*, as demonstrated above. In contrast, Applicants respectfully submit that the reference does not disclose that the amount of cysteine present in the composition may be based on a wet dog food. In fact, the reference specifically states that effective levels of cysteine include “1% and 3% by weight of the dry weight of the dog food,” as is demonstrated above. See, *Boudreau*, column 3, lines 7-10. As such, Applicants respectfully submit that the Patent Office cannot interpret “dry” to mean “wet or dry dog food” when the applied reference specifically indicates that the cysteine levels correspond only to the

“dry weight” of the dog food. Similarly, the percentages of cysteine contained in *Boudreau* cannot be read as applying to a dog food comprising 100g of dry dog food and 150g of warm water when the reference specifically states that the percentages of cysteine specifically apply solely to the 100g of dry dog food. Therefore, at best, *Boudreau* discloses 1% and 3% cysteine of 100g of dry dog food, in contrast to the cysteine comprising from about 0.50% to about 0.75% by weight of the pet food as required, in part, by the present claims.

Moreover, *Bourdeau* fails to disclose or even suggest lysine comprising from about 2.7% to about 3.1% by weight of the pet food as required, in part, by independent Claim 56. Although the Patent Office cites Reexamined claim 11 of *Boudreau* as disclosing 0.1-500 mM of lysine, Applicants respectfully submit that *Boudreau* still fails to disclose or suggest lysine comprising about 2.7% to about 3.1% by weight of the pet food as is required, in part, by Claim 56. As a preliminary matter, Applicants respectfully submit that Reexamined claim 11 of *Boudreau* fails to disclose or even mention any amounts of L-lysine present in the dog food. See, *Boudreau*, Reexamined claim 11. Instead, Applicants respectfully submit that the only mention of any levels of L-lysine are found in Reexamined claims 2 and 14. However, the disclosed levels of 0.1 to 500 mM of L-lysine are said to be employed in an aqueous gravy. Instead of disclosing a percentage of L-lysine contained in the present food composition, *Boudreau* only discloses molar amounts of lysine, which are measures of the concentration of a solution (measured as moles of solute per litre of solution and having units of mol dm^{-3}) and are completely distinguishable from the presently claimed percentages. As such, Applicants respectfully submit that *Boudreau* fails to disclose lysine comprising about 2.7% to about 3.1% by weight of the pet food as required, in part, by Claim 56.

Moreover, *Boudreau* even teaches away from the present claims by teaching that 1% of L-lysine was not efficient to show palatability boosts, as was mentioned above. Because *Boudreau* fails to disclose or suggest any amount over 1% L-lysine, and even teaches away from using the 1% of L-lysine, *Boudreau* cannot disclose lysine comprising about 2.7% to about 3.1% by weight of the pet food.

With respect to independent Claims 57-59, and for many of the same reasons discussed above with respect to independent Claim 56, *Boudreau* fails to disclose or even suggest lysine comprising 6.7% to about 12.5% by weight of the dietary protein level of a pet food and cysteine comprising from about 1.67% to about 2.68% of the dietary protein level of the pet food.

Because *Boudreau* fails to disclose or suggest any amount over 1% L-lysine, and even teaches away from using the 1% of L-lysine, *Boudreau* cannot disclose lysine comprising 6.7% to about 12.5% by weight of the dietary protein level of a pet food as required, in part, by the present claims. As such, Applicants respectfully submit that *Boudreau* fails to disclose each and every element of independent Claims 56-59 and, therefore, fails to render the present claims obvious.


Accordingly, Applicants respectfully request that the obviousness rejections with respect to Claims 56-59 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same. In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Respectfully submitted,

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